

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tahreem Khan	Team: Squad #11	CCRB Case #: 201907030	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 08/08/2019 5:15 PM	Location of Incident: 71 Saint Nicholas Avenue	Precinct: 28	18 Mo. SOL 2/8/2021	EO SOL 9/25/2021	
Date/Time CV Reported Thu, 08/08/2019 6:25 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 08/08/2019 6:25 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Opeyemi Sapara	03980	935701	028 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DI Christophe McIntosh	00000	922752	028 PCT
2. CPT Edison Gutierrez	00000	932763	028 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Opeyemi Sapara	Abuse: Sergeant Opeyemi Sapara seized § 87(2)(b) s property.	
B.SGT Opeyemi Sapara	Abuse: Sergeant Opeyemi Sapara questioned § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

On August 8, 2019, § 87(2)(b) filed this complaint online.

On August 8, 2019 at approximately 5:15 p.m. on 71 Saint Nicholas Avenue in Manhattan, § 87(2)(b) was outside with some friends when he was approached by Deputy Inspector Christopher McIntosh, Captain Edison Gutierrez, of the 28th Precinct, and Sergeant Opeyemi Sapara, of the 28th Precinct Detective Squad.

After approaching § 87(2)(b) Sgt. Sapara seized § 87(2)(b)'s speaker, which was on the ground (**Allegation A: Abuse of Authority**, § 87(2)(g)). Sgt. Sapara then asked for § 87(2)(b)'s identification (**Allegation B: Abuse of Authority**, § 87(2)(g)) and § 87(2)(b) refused to provide it. § 87(4-b), § 87(2)(g)

§ 87(2)(b) was not arrested during this incident, nor was he issued any summonses.

There is no body-worn camera (BWC) footage regarding this incident as Deputy Inspector McIntosh did not have a BWC at the time, and Sgt. Sapara did not have his BWC because he was assigned to administrative duties.

Cell phone video footage was obtained from § 87(2)(b) on September 18, 2019.

Since the date of this incident, Deputy Inspector McIntosh has been promoted to the rank of Inspector. For the purpose of this closing report, he will be addressed by his former rank.

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Opeyemi Sapara seized § 87(2)(b)'s property.

On September 18, 2019, § 87(2)(b), § 87(2)(b)'s girlfriend, sent the CCRB the video (Board Review 4) that § 87(2)(b) recorded on § 87(2)(b) on August 8, 2019. At 00:13, an officer in a white shirt reaches towards the ground where § 87(2)(b)'s bag of clothes and a speaker are. The officer picked up the speaker. At the 00:19 mark, a plainclothes officer made a hand gesture towards § 87(2)(b) signaling him to come closer, to which § 87(2)(b) responded, "No I'm not giving it. I'm out of here." At the 00:28 mark, the white shirt officer says something inaudible, to which § 87(2)(b) responds, "It's my girlfriend's. She wants it and she's going to come get it too--with the Cop Watch. She'll come with Cop Watch. We're coming with Cop Watch."

§ 87(2)(b) (Board Review 1) stated that while recording his friend—§ 87(2)(b)—on Instagram Live doing pushups, three officers exited their unmarked vehicle, one of whom § 87(2)(b) recognized as, "McIntosh," since he has had multiple interactions in the past with Deputy Insp. McIntosh. The other two officers were identified via investigation as Capt. Edison Gutierrez and Sergeant Opeyemi Sapara. Capt. Gutierrez approached § 87(2)(b)'s bag and speaker, both of which were on the ground away from § 87(2)(b). The speaker was not playing. Capt. Gutierrez picked up the speaker and asked whose speaker that was. § 87(2)(b) stated that it was his girlfriend's speaker. Capt. Gutierrez told § 87(2)(b) to "come and get it at the 28th Precinct." § 87(2)(b) responded that his girlfriend would come with "Cop Watch" to retrieve her speaker. § 87(2)(b) however, did not return to claim the speaker as he believed that the officers were trying to arrest him.

Deputy Insp. McIntosh (Board Review 2) stated that when he reached Saint Nicholas Avenue and possible between West 112th Street and West 114th Street, from approximately 10 to 15 feet away from § 87(2)(b) he observed § 87(2)(b) drinking alcohol. Deputy Insp. McIntosh saw § 87(2)(b) with a clear plastic "party" cup that had brown liquid in it. Deputy Insp. McIntosh also saw empty alcohol bottles on the ground and § 87(2)(b) with a group of 5-6 individuals. Deputy Insp. McIntosh observed § 87(2)(b) for maybe a minute. It is possible that he shared his observation with someone else in his vehicle, but he could not remember if he did so. Deputy Insp. McIntosh was unable to state if he smelled alcohol as he never got close enough to

§ 87(2)(b)

When Deputy Insp. McIntosh exited his vehicle to tell § 87(2)(b) that he cannot drink, § 87(2)(b) walked away. Deputy Insp. McIntosh did not recall issuing § 87(2)(b) any commands or having any type of interaction. He observed there was also a speaker on the ground that was playing loud enough to attract attention. Deputy Insp. McIntosh did not know what happened with the speaker or know whether it was invoiced as he was the Commanding Officer and did not deal with issues at that level. He did not observe any officer take § 87(2)(b)'s speaker.

Sgt. Sapara (Board Review 3) stated that when the officer approached the intersection of West 113th Street on Saint Nicholas Avenue, Sgt. Sapara and Deputy Insp. McIntosh heard the music one block away. They drove to the corner of West 114th Street and observed a male—§ 87(2)(b)—playing music over the loudspeaker. Sgt. Sapara and Deputy Insp. McIntosh did not have any conversation prior to exiting their vehicle. Sgt. Sapara could not estimate how long he heard the music for. Once they exited the car, § 87(2)(b) walked away and started recording the officers on his cell phone. At the time, the music playing loudly was a noise issue. As § 87(2)(b) was recording and walking away, he made statements, but Sgt. Sapara could not recall what those statements were. Sgt. Sapara had not made any statements or issued any commands to § 87(2)(b). § 87(2)(b) left his medium-sized speaker behind on the corner of the street. Sgt. Sapara or Deputy Insp. McIntosh picked up the speaker, took it back to the station house, and gave to another officer at the station house to voucher the speaker as “determine true owner” or “found property.” Sgt. Sapara did not personally voucher the speaker. § 87(2)(b) had not made any statements regarding the speaker.

Invoice #§ 87(2)(b) (Board Review 5) notes that the speaker was found by Sgt. Sapara and was vouchered to “determine true owner.”

Officers can take property into custody if its owner cannot be determined and no arrest is made. NYPD Patrol Guide Procedure 218-19 (Board Review 6).

§ 87(2)(g)

Allegation (B) Abuse of Authority: Sergeant Opeyemi Sapara questioned § 87(2)(b)

The video footage did not capture this allegation.

§ 87(2)(b) (Board Review 1) asked the officers why they were bothering him. Sgt. Sapara told § 87(2)(b) that he was drinking. During his interview, § 87(2)(b) stated that he held a half-filled cup with iced tea with the New Life Juice Bar logo on it. § 87(2)(b) told Sgt. Sapara that if he was drinking, then he should have been issued a summons. Sgt. Sapara asked for § 87(2)(b)'s identification. § 87(2)(b) said “no,” told Sgt. Sapara that he was leaving, and walked away.

Sgt. Sapara (Board Review 3) testified that he did not ask § 87(2)(b) for his identification. Sgt. Sapara viewed the video footage (Board Review 4), where § 87(2)(b) stated, “I’m not giving it.” Sgt. Sapara did not recall what he may have asked § 87(2)(b).

Deputy Insp. McIntosh (Board Review 2) did not observe any officer asking § 87(2)(b) for his identification as § 87(2)(b) walked away. Deputy Insp. McIntosh did not recall any officers interacting with § 87(2)(b).

§ 87(2)(g)

§ 87(2)(g)

Squad Leader:	<u>Edwin Pena</u>	<u>IM Edwin Pena</u>	<u>11/17/20</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date